

AMENDED IN SENATE MARCH 27, 2014

**SENATE BILL**

**No. 1357**

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**Introduced by Senator Wolk**

February 21, 2014

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An act to ~~amend Section 4780 of the Probate Code, relating to health care decisions.~~ *add Section 4788 to the Probate Code, relating to resuscitative measures.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1357, as amended, Wolk. ~~Resuscitative measures.~~ *Physician Orders for Life Sustaining Treatment form: state-wide registry.*

Existing law defines a request regarding resuscitative measures as a written document, signed by an individual with capacity, or a legally recognized health care decisionmaker, and the individual's physician, directing a health care provider regarding resuscitative measures. *Existing law defines a Physician Orders for Life Sustaining Treatment form, which is commonly referred to as a POLST form and provides that a request regarding resuscitative measures includes a POLST form. Existing law requires that a POLST form and the medical intervention and procedures offered by the form be explained by a health care provider.* Existing law distinguishes a request regarding resuscitative measures from an advance health care directive.

This bill would ~~make nonsubstantive changes in these provisions~~ *enact the California POLST Registry Act. The bill would require the State Department of Public Health to establish and operate a state wide registry system, to be known as the California POLST Registry, for the purpose of collecting POLST forms received from individuals electing to submit the forms and disseminating the information in the forms to authorized users, including health care providers. The bill would require*

*the department to adopt rules for the operation of the registry, which would include the means by which POLST forms would be submitted, revised, and revoked, appropriate and timely methods for dissemination of POLST form information, and procedures for verifying the identity of users and maintaining the confidentiality of POLST forms. The bill would require that any disclosure of POLST form information in the registry be made in accordance with applicable federal privacy laws. The bill would authorize the department to charge an appropriate fee to registrants using the registry and would provide immunity for people who submit information to, and use information in, the registry and act in good faith.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. *This act shall be known, and may be cited, as the*
- 2     *California POLST Registry Act.*
- 3     SEC. 2. *Section 4788 is added to the Probate Code, to read:*
- 4     4788. (a) *For purposes of this section:*
- 5     (1) *“Authorized user” means a person authorized by the*
- 6     *department to submit information to, or to receive information*
- 7     *from, the POLST registry, including health care providers.*
- 8     (2) *“Department” means the State Department of Public Health.*
- 9     (3) *“POLST form” means a Physician Orders for Life Sustaining*
- 10    *Treatment form that fulfills the requirements of Section 4780.*
- 11    (4) *“Registrant” means an individual who elects to submit a*
- 12    *POLST form to the registry.*
- 13    (5) *“Registry” means the California POLST Registry established*
- 14    *by the department pursuant to this section.*
- 15    (b) *The department shall establish and operate a statewide*
- 16    *registry system, to be known as the California POLST Registry,*
- 17    *for the purpose of collecting a POLST form received from a*
- 18    *registrant and disseminating the information in the form to an*
- 19    *authorized user. The department shall adopt all rules and*
- 20    *regulations necessary for the operation of the registry, which shall*
- 21    *include, but not be limited to, the following:*
- 22    (1) *The means by which a POLST form may be submitted to the*
- 23    *registry, may be revised, and may be revoked.*

1 (2) *Appropriate and timely methods by which the information*  
2 *in the registry may be disseminated to an authorized user.*

3 (3) *Procedures for verifying the identity of an authorized user.*

4 (4) *Procedures to ensure the accuracy of and to appropriately*  
5 *protect the confidentiality of POLST forms submitted to the*  
6 *registry.*

7 (c) *The registry and the information it contains shall be the*  
8 *property of the state and any disclosure of information in POLST*  
9 *forms received by the registry shall be made in a manner consistent*  
10 *with the federal Health Insurance Portability and Accountability*  
11 *Act of 1996 (Public Law 104-191).*

12 (d) *The department may charge an appropriate and reasonable*  
13 *fee to a registrant in an amount that, when the fees charged to*  
14 *registrants are aggregated, does not exceed the actual cost of*  
15 *establishing and maintaining the registry.*

16 (e) *A registrant reporting information to the registry or an*  
17 *authorized user acting upon information obtained from the registry*  
18 *is not subject to criminal prosecution, civil liability, discipline for*  
19 *unprofessional conduct, administrative sanction, or any other*  
20 *sanction if the person acted in good faith and had no knowledge*  
21 *that the action or decision would be inconsistent with a health*  
22 *care decision that the individual signing the request would have*  
23 *made on his or her own behalf under like circumstances.*

24 ~~SECTION 1. Section 4780 of the Probate Code is amended to~~  
25 ~~read:~~

26 ~~4780. (a) As used in this part:~~

27 ~~(1) “Request regarding resuscitative measures” means a written~~  
28 ~~document, signed by an individual with capacity, or a legally~~  
29 ~~recognized health care decisionmaker, and the individual’s~~  
30 ~~physician, that directs a health care provider regarding resuscitative~~  
31 ~~measures. A request regarding resuscitative measures is not an~~  
32 ~~advance health care directive.~~

33 ~~(2) “Request regarding resuscitative measures” includes one,~~  
34 ~~or both of, the following:~~

35 ~~(A) A prehospital “do not resuscitate” form as developed by~~  
36 ~~the Emergency Medical Services Authority or other substantially~~  
37 ~~similar form.~~

38 ~~(B) A Physician Orders for Life Sustaining Treatment form, as~~  
39 ~~approved by the Emergency Medical Services Authority.~~

1     ~~(3) “Physician Orders for Life Sustaining Treatment form”~~  
2     ~~means a request regarding resuscitative measures that directs a~~  
3     ~~health care provider regarding resuscitative and life-sustaining~~  
4     ~~measures.~~

5     ~~(b) A legally recognized health care decisionmaker may execute~~  
6     ~~the Physician Orders for Life Sustaining Treatment form only if~~  
7     ~~the individual lacks capacity, or the individual has designated that~~  
8     ~~the decisionmaker’s authority is effective pursuant to Section 4682.~~

9     ~~(c) The Physician Orders for Life Sustaining Treatment form~~  
10    ~~and medical intervention and procedures offered by the form shall~~  
11    ~~be explained by a health care provider, as defined in Section 4621.~~  
12    ~~The form shall be completed by a health care provider based on~~  
13    ~~patient preferences and medical indications, and signed by a~~  
14    ~~physician and the patient or his or her legally recognized health~~  
15    ~~care decisionmaker. The health care provider, during the process~~  
16    ~~of completing the Physician Orders for Life Sustaining Treatment~~  
17    ~~form, should inform the patient about the difference between an~~  
18    ~~advance health care directive and the Physician Orders for Life~~  
19    ~~Sustaining Treatment form.~~

20    ~~(d) An individual having capacity may revoke a Physician~~  
21    ~~Orders for Life Sustaining Treatment form at any time and in any~~  
22    ~~manner that communicates an intent to revoke, consistent with~~  
23    ~~Section 4695.~~

24    ~~(e) A request regarding resuscitative measures may also be~~  
25    ~~evidenced by a medallion engraved with the words “do not~~  
26    ~~resuscitate” or the letters “DNR,” a patient identification number,~~  
27    ~~and a 24-hour toll-free telephone number, issued by a person~~  
28    ~~pursuant to an agreement with the Emergency Medical Services~~  
29    ~~Authority.~~